

My name is Dan VanderKolk. I'm here as a private citizen. And kind of came here by accident. The accident occurred near my home when I was paddling my kayak up the river and noticed a discharge of effluent into the waterway. I have a written narrative here that I will submit. *(follows the verbal testimony)* I won't take a lot of time to go over all the details. What I found was an egregious violations of the water quality standards of the permit that was supposedly being administered to this company. I found this company totally out of compliance and showing no inclination whatsoever to come into compliance. This had been the situation that had gone on since at least 1999 when their inspection report shows that they were contacted and told that there was a problem. I normally am not involved in these kinds of issues. I am a real estate developer. I have paid thousands of dollars to different state agencies or to comply with different state agencies, city governments, municipalities, counties, in order to ensure that I was in compliance with the Clean Water Act. And when I find companies that are getting a way with this, I find it very disturbing. Just a little further upstream from this, I was wondering why the river was always so brown and I found out when I got home and read the paper in April that another large company was discharging silt into the river. Through a freedom of information request, I found out that they received a \$24,000 fine, but it was approximately \$430,000 less than they probably should have received. So they got a \$430,000 profit at the expense of me, the rest of the citizens in my town, and the state. Both of these companies are owned by Canadian citizens, they're not even in our country. I joined several groups as a result of this and one of them sent me a request to come down here and testify today, which I did. I believe Richard Smith is an attorney in Seattle has prepared a document that talks about his concerns about the deficiencies in this new stormwater permit. I won't go over those here today. They are in this document. I think the four, certainly the big issues that he addresses, should be followed. And I think any other recommendations that he has should also be incorporated. I don't believe, from my experience, that industry is able or shows any inclination to monitor itself. These were two very egregious violations. And so I think Ecology needs to step up enforcement and make sure that we have good rules and regulations on the books. I find the characterization very disturbing for Ecology. Now I feel that they are more looking at the violators as customers. It's as if the State Patrol stops someone going, a drunk going 90 mph up I-5 and decided that he was a customer that they needed to bring into compliance. I think some stiff fines and some real very definite financial burdens should be assessed. Thank you.

(Written Testimony Submitted at Hearing)

I'm here today to offer my testimony. I'm here by accident and reluctantly. I'm the most important witness you will hear today. I may be the most important witness you will hear in course of these meetings. I'm not important as an individual. I'm only important as a token of the people I represent. They are thousands of citizens who complacently go about their daily business confident in their own minds that certain functions of government, laws, rules and regulations which have been passed to protect them are being followed and enforced. We go to work, play softball with our kids, go to church, watch 'Friends' on TV and go out to dinner with our wives confident that the Clean Water Act will insure that our rivers, streams and lakes will be kept free of contaminants and that the Clean Air Act will keep the air we breath free of harmful substances. We have been lulled into this complacency, I think, by our innate inclination to be good citizens. We mow our lawns, put the garbage out for pickup, clean our houses and volunteer for civic activities. As a rule we don't lie, cheat, steal or behave in a dishonest manner in order to get ahead. We pretty much abide by the rules and we represent the majority of the people who live in this society. Mostly we interact with one another and assume

that our experience is pretty much the way things are all over. We trust others. We trust our elected officials and we trust the companies we do business with and work for

If you rented ten Kingdoms you couldn't even begin to accommodate all the people who should be here testifying today. I'm like the tip of an enormous iceberg and that is what makes my testimony so important. I am saying what the vast majority of citizens would say if they, like me, had had their complacency shattered. The incident that shattered my complacency was the result of kayaking, an activity I engage in several times a week. I live on the Skookumchuck River in Centralia and it provides a convenient and enjoyable way to exercise. Two years ago as I paddled by a certain stretch of river I noticed a sewage like smell. It seemed to originate in the area of an industrial plant called Ace International, Inc. where a drainpipe emptied into the river. When I returned home I called the Centralia City Manager and voiced my concern about pollution entering the river. He referred me to the City Engineer who referred me to the County Environmental Health officer who assured me he would make an investigation. I soon forgot about the incident.

This January I again noticed the smell and this time I pulled my boat close to the bank. Not only was there a distinct odor, but also the branches and twigs for about 50 feet along the riverbank were covered with some kind of white fungus. I got out of my boat and climbed up the bank to see where the water was coming from. From the top of the bank I could see a ditch about a quarter mile long and 30 feet across that contained the most disgusting mucky ooze imaginable. I've been in several third world countries and with the exception of the river in Belize City I don't think I've ever seen a nastier looking creek.

When I got home I started making phone calls. I called the City Manager, the Mayor, the County Health Dept., the Dept. of Ecology, and the newspaper. The next day two employees of the Lewis County Environmental Health Dept. met with me on the site. They expressed their disbelief at the condition of the waterway. One of them happened to be the individual who had 'handled' my first complaint a year earlier. He told me that

when he contacted the plant manager over that incident he was assured that it was a small problem that was already taken care of and he never visited the site. 'He's not going to blow me off again!' was his comment about handling this new complaint. I asked all the representatives of the agencies I called to keep me informed of the disposition of this complaint and they assured me they would. I thought it only fair to call the plant manager myself and let him know of my concerns. He was cordial, but insistent, that his plant was in full compliance with all environmental regulations, that they didn't use any water in their manufacturing process and they didn't even need a permit from DOE since they didn't discharge anything. I was cordial also, but asked that he at least walk onsite to see what the situation was.. his office was a few blocks away and he wasn't engaged in the day-to-day plant operation.

Time passed. My mother was 89 years old and in the latter stages of Alzheimer's and I was caring for her. I was also managing about 50 rental houses, running a crew of maintenance and remodeling workers, working on commercial and industrial development properties and continuing to buy and sell real estate. I was complacent, but also quite busy. I noticed on my kayak trips that the situation at the pipe had not changed and I finally called the County to find out what was going on. 'I'm tired of having this filth run into the river!' I told them. After several days they got back to me with the information that DOE had found Ace International was discharging untreated storm water into the river.. along with numerous other violations.. and they had written them a letter stating that they were in violation of the Federal Clean Water Act, but beyond that they weren't going to do anything else. Through a 'freedom of

information' request at DOE I found that this company had been in violation of its permit at least since December of 1999 and probably well before that. They had also violated the Clean Air Act and been the subject of considerable problems with the neighbors in the area. After several threats they made some modifications and improved the dusty conditions, but on the day I was there they were illegally discharging particulate matter from their grinder stacks. A Canadian couple out of New Westminster, BC owns this company.

Just upstream about a mile Hanaford Creeks joins the Skookumchuck. On numerous occasions I noticed that it was full of silt. I knew the County had a rock pit upstream and thought they might be disturbing the bank. I was too complacent to inquire further as well as being busy. In April of this year I opened my paper and the mystery was solved. Trans Alta, another Canadian owned corporation, had just received a \$24,000 fine from DOE for allowing too much silt to run off its strip mining operation. It is a huge corporation that contributes significantly to the City of Centralia's economic base. It also employs the State Representative from our area. Having learned a little from my experience with Ace I went up and reviewed the Trans Alta file at DOE. What I found shook me even further out of my complacent lethargy. While \$24,000 seems like a lot of money to you and me, it isn't even 'spare change' for a corporation like Trans Alta. When electrical rates were spiking they opened up a new mining area so they could get at the coal seam underneath. Instead of taking the time to properly construct the needed barriers to keep the silt out of the river they focused on getting as much coal out of the ground as possible so they could sell the power on the spot market and make a huge profit. Then came the rains and bingo they were in violation of their NPDES permit.

Their fine should have been \$454,000, but DOE let them off for \$24,000, a savings of \$430,000. Even had they paid the full fine I doubt it would have represented a fraction of the profit they made on the decision to mine first and pay the consequences later.

In my experience as a developer I have had to spend thousands of dollars to mitigate environmental concerns from City, County and State agencies. These costs were absorbed into the development and consequently affected my bottom line. In short they cost me money. Money that I would much rather have kept for myself. There was some relief in the belief that I was being treated the same as everyone else and that the agencies in charge were insuring that the obligations by all parties were met equally.

It is with chagrin dismay and considerable anger that I find this was not... is not... the case. In fact our state agencies are lax about enforcement and in many cases are not actually fulfilling any 'enforcement' at all. The attitude I've seen is one of accommodation. Say the state patrol stops a drunk doing 90 MPH on I-5. Are they supposed to consider the violator a 'customer' they need to 'help' comply with the law? That is precisely the attitude I see present in the DOE hierarchy in dealing with Ace and Trans Alta. Breaking CWA regulations is standard operating procedure for many companies and weak enforcement makes the crime pay... handsomely.

Business cannot be trusted to monitor itself. Adequate regulations must be maintained and regulations must be rigorously and fairly enforced. You folks on this board have the responsibility to all the citizens of this state to insure this attitude is reflected in this Industrial Storm water Permit. Mr. Richard Smith who has infinitely more familiarity with the document than I ever will has four major recommendations.

First, the section dealing with 'mixing zones' needs significant revision to insure the standards will be met. Second, Permittees should be required to adopt the new AKART requirements. Third, Permittees should not be allowed to maintain their own records they must be deposited with the DOE. Fourth, Permittees should not be allowed to bypass their NPDES permit with a

'no exposure' status by default. There are also numerous other considerations that he could supply if he hasn't already done so.

Your action on this issue is critical. We need to get the fox out of the henhouse. This is a situation that cries out for redress and a repair. I hope you will do the right thing and give the constituency that I represent a fair and equal voice in this important document.

Thank you,

Dan VanderKolk